

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JANE DOE, et al.,

Plaintiffs,

v.

TENET HEALTHCARE
CORPORATION, et al.,

Defendants.

No. 1:23-cv-01106-TLN-CKD

LORI BELTRAN, et al.,

Plaintiffs,

v.

DOCTORS MEDICAL CENTER OF
MODESTO, et al.,

Defendants.

No. 2:23-cv-01670-TLN-CKD

JUDITH HARRILL,

Plaintiff,

v.

EMANUEL MEDICAL CENTER, et al.,

Defendants.

No. 2:23-cv-01672-TLN-CKD

ORDER

1 This matter is before the Court on three Motions to Consolidate filed by Defendants in
 2 Case No. 1:23-cv-01106-TLN-CKD, (the “*Doe* case”) (ECF No. 28), Case No. 2:23-cv-01670-
 3 TLN-CKD (the “*Beltran* case”) (ECF No. 36), and Case No. 2:23-cv-01672-TLN-CKD (the
 4 “*Harrill* case”) (ECF No. 34). Plaintiffs filed non-oppositions in *Beltran* (ECF No. 37) and
 5 *Harrill* (ECF No. 35). Plaintiffs filed an opposition in *Doe* (ECF No. 33), and Defendants filed a
 6 reply (ECF No. 35). For the reasons set forth below, the Court DENIES Defendants’ motions.

7 I. FACTUAL AND PROCEDURAL BACKGROUND

8 The above-captioned cases are putative class actions against Defendant Tenet Healthcare
 9 Corporation (“Tenet”) and various Tenet-related entities. Plaintiffs in all three cases allege
 10 claims related to the unlawful transmission of their private health information and personal
 11 identifying information through online tracking software on certain Tenet websites. In the *Doe*
 12 case, Plaintiffs assert claims based on the Doctors Medical Center of Modesto, Inc. (“Doctors
 13 Medical”) website, the Desert Regional Medical Center website, and the Twin Cities Community
 14 Hospital website. (Case No. 1:23-cv-01106, ECF No. 19.) In the *Beltran* case, Plaintiffs assert
 15 claims based on the Doctors Medical website. (Case No. 2:23-cv-01670, ECF No. 1.) In the
 16 *Harrill* case, Plaintiffs assert claims based on the Emanuel Medical Center website. (Case No.
 17 2:23-cv-01672, ECF No. 1.) The Court ordered the cases related on October 3, 2023, and
 18 Defendants in each case filed the instant motions to consolidate on November 30, 2023.¹ (Case
 19 No. 1:23-cv-01106, ECF Nos. 17, 28.)

20 II. STANDARD OF LAW

21 Federal Rule of Civil Procedure (“Rule”) 42 states, “If actions before the court involve a
 22 common question of law or fact, the court may: (1) join for hearing or trial any or all matters at
 23 issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary
 24 cost or delay.” Fed. R. Civ. P. 42(a). “The district court has broad discretion under this rule to
 25 consolidate cases pending in the same district.” *Invs. Rsch. Co. v. U.S. Dist. Ct. for Cent. Dist. of*
 26 *Cal.*, 877 F.2d 777, 777 (9th Cir. 1989). “In determining whether to consolidate actions, the court

27 ¹ The related case orders and motions to consolidate in all three cases are identical.
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weighs the interest of judicial convenience against the potential for delay, confusion, and prejudice caused by consolidation.” *Quair v. Thomas*, No. 1:21-cv-01397-JLT-SKO, 2022 WL 675754, at *1 (E.D. Cal. Mar. 7, 2022) (citation omitted).

III. ANALYSIS

Defendants request the Court: (1) consolidate the claims arising out of the visits to the Doctors Medical website in the *Doe* case and the *Beltran* case for all purposes pursuant to Rule 42(a)(2) and order Plaintiffs in those cases to file a consolidated class action complaint; and (2) consolidate the claims and proposed classes arising out of visits to the other Tenet entities’ websites as alleged in the *Doe* and *Harrill* cases (i.e. Desert Regional Medical Center, Twin Cities Community Hospital, and Emanuel Medical Center) for the purposes of discovery and scheduling pursuant to Rule 42(a)(3).² (Case No. 1:23-cv-01106, ECF No. 28.)

Plaintiffs in the *Doe* case (“*Doe* Plaintiffs”) partially oppose the motion to consolidate. (ECF No. 33.) *Doe* Plaintiffs do not oppose coordination of discovery and scheduling in the related actions but do oppose consolidation of *Doe* and *Beltran* for all purposes. (*Id.* at 2.) While *Doe* Plaintiffs acknowledge *Doe* and *Beltran* have significant legal and factual overlap, *Doe* Plaintiffs argue full consolidation is inappropriate because the cases involve different parties, different claims, and different proposed classes. (*Id.*)

The Court agrees with *Doe* Plaintiffs for several reasons. First, the *Doe* case is significantly broader than the *Beltran* case. *Doe* Plaintiffs bring their claims on behalf of a nationwide class, including patients of all Tenet Healthcare affiliates. (Case No. 1:23-cv-01106, ECF No. 19.) In contrast, Plaintiffs in *Beltran* limit their proposed class to patients or prospective patients who visited the website of a single hospital. (Case No. 2:23-cv-01670, ECF No. 1.) Second, the *Doe* case includes two Defendants that are not named in *Beltran* — Twin Cities Community Hospital, Inc. and Desert Regional Medical Center. (*Id.*) Third, *Doe* and *Beltran* involve multiple distinct claims. As Defendants acknowledge, the *Doe* case asserts claims against Tenet and Doctors Medical for violation of the Electronic Communications Privacy Act,

² Defendants did not move to consolidate the *Harrill* case for all purposes because it does not involve a named plaintiff who visited the Doctors Medical website. (ECF No. 35 at 3.)

1 California's Computer Data Access and Fraud Act, quasi-contract/unjust enrichment, California's
2 Unfair Competition Law, and trespass to chattels, while the *Beltran* case asserts implied contract
3 claims. (ECF No. 35 at 4.) Fourth, there are pending motions to dismiss in all three related
4 actions. Based on the differences between the related actions, the Court believes consolidation
5 would result in more confusion, inefficiency, and delay than resolving each motion to dismiss
6 separately. Accordingly, the Court DENIES Defendants' motions to fully consolidate the *Doe*
7 and *Beltran* cases without prejudice.

8 In addition, the Court DENIES Defendants' request to consolidate scheduling and
9 discovery. The deadlines set forth in the Pretrial Scheduling Order are triggered once the last
10 answer is filed. Once the last answer is filed in each case, the parties may file stipulations
11 coordinating scheduling and discovery between the cases if they wish to do so.

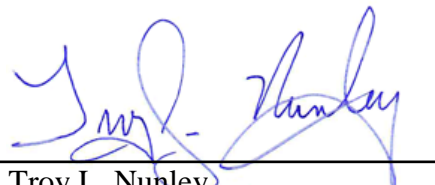
12 **IV. CONCLUSION**

13 For the foregoing reasons, the Court DENIES Defendants' Motions to Consolidate Case
14 No. 1:23-cv-01106-TLN-CKD (ECF No. 28), Case No. 2:23-cv-01670-TLN-CKD (ECF No. 36),
15 and Case No. 2:23-cv-01672-TLN-CKD (ECF No. 34). Plaintiffs shall file an opposition to the
16 pending Motions to Dismiss in each respective case not later than fourteen (14) days from the
17 electronic filing date of this Order, and Defendants' replies shall be due fourteen (14) days
18 thereafter.

19 IT IS SO ORDERED.

20 Date: June 20, 2024

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Troy L. Nunley
United States District Judge